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**Before the
Federal Communications Commission
Washington, D.C. 20554**

MAR - 1 1996

In the Matter of)

Amendment of the Commission's Rules)
To Permit Flexible Service Offerings)
in the Commercial Mobile Radio Services)

WT Docket No. 96-6

To: The Commission

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COMMENTS OF THE AD HOC RURAL CELLULAR COALITION

Pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), the Ad Hoc Rural Cellular Coalition ("RCC") hereby respectfully submits these Comments in response to the Commission's January 25, 1996 Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding.

STATEMENT OF INTEREST

RCC is a coalition of cellular carriers serving rural America.¹ The Commission has proposed to broaden the type of service options which cellular carriers may offer by allowing

¹ RCC members companies include: Cellular Mobile Systems of St. Cloud General Partnership (Minnesota), Mid-Tex Cellular, LTD. (Texas), Arctic Slope Telecommunications and Cellular, Inc. (Alaska), CT Cube, Inc. (Texas), Leaco Rural Telephone Cooperative, Inc. (New Mexico), CGKC&H No. 2 Cellular Limited Partnership (Texas) and Advantage Cellular Systems, Inc. (Tennessee).

cellular carriers to offer fixed wireless local loop service on more than an incidental basis. Accordingly, RCC has a significant interest in the outcome of this proceeding.

DISCUSSION

RCC applauds the *NPRM*'s attempt to foster competitive local exchange service through its proposal to allow broadband Commercial Mobile Radio Service ("CMRS") providers to offer the equivalent of local exchange service using existing allocations for Personal Communications Services ("PCS"), Cellular and Specialized Mobile Radio ("SMR") services.² Allowing wireless providers to offer fixed local loop services as defined in the *NPRM*³ and to provide those services in a less restrictive regulatory environment can only benefit the rural customers that RCC members serve. Specifically, as detailed below, allowing wireless carriers to offer fixed local loop and other services will produce increased competition, improve and develop current services and extend telephone service to underserved and high cost areas -- all of which advance the public interest.

I. Authorizing Fixed Wireless Local Loop Services Via CMRS Promotes Competition and Serves the Public Interest.

As the Commission has recognized, allowing wireless carriers to offer fixed local loop and other services should produce much-needed competition in local services.⁴ In rural America, there are many instances where the Local Exchange Carrier (LEC) refuses to expend

² *NPRM* at para. 9.

³ The *NPRM* defines "wireless local loop" as the path between the subscriber and the first point of switching or aggregation of traffic, and requests comment on this definition. RCC supports the use of this definition.

⁴ *NPRM* at para. 8.

the resources to upgrade existing infrastructure to provide advanced telephone services such as call waiting, call forwarding, and voice mail to its customers. Additionally, there are instances where LECs do not provide service to rural areas because the potential customer would be charged astronomical construction fees for establishing basic service. These high cost areas are ideally suited for fixed wireless local loop service. By allowing cellular carriers and other CMRS licensees to provide fixed wireless local loop service in these areas, the Commission will promote competition and allow the public to obtain services that would otherwise not be available to them.

RCC notes that under existing rules, cellular carriers may offer fixed services on an auxiliary or incidental basis.⁵ The proposals set forth in the *NPRM* merely clarify the types of service which cellular licensees already are authorized to provide. Allowing CMRS providers to offer fixed services on more than an auxiliary or incidental basis will give such carriers greater flexibility to meet market demand, including meeting demand that traditionally has been serviced by wireline common carriers.⁶ Such competition can only serve to improve local service and to lower prices for consumers, goals which advance the public interest and are mandated by the Communications Act.⁷ Adoption of these pro-competitive proposals in the *NPRM* is also consistent with the new Telecommunications Act of 1996's directive to:

provide for a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all

⁵ 47 C.F.R. § 22.323 (1995).

⁶ *NPRM* at para. 16.

⁷ *See* 47 U.S.C. § 157.

telecommunications markets to competition...⁸

Allowing wireless providers to offer fixed local loop services will also benefit consumers and providers by extending the reach of services in an efficient manner. For example, efficiency of call routing might be enhanced by allowing CMRS providers to offer fixed wireless local loop services. For calls going from a fixed location to a mobile user, a wireless local service provider potentially could identify the location of the mobile user and route the call more efficiently than is currently done with the IS-41 routing system which delivers calls first to the mobile user's home system and then forwards them to the mobile user's current location.⁹ This could result in cost savings for both wireless companies and their customers.

Authorizing the provision of fixed local services through the use of wireless technology would advance the Congressional and Commission goal of establishing universal service. For some locations, particularly rural areas, distance and terrain are significant obstacles to extension of basic telephone services. Allowing fixed local loop services to be provided by cellular and other wireless providers would, as the Commission has recognized, increase the possibility of economically achieving universal basic telephone service.¹⁰

⁸ *Telecommunications Act of 1996*, Conference Report, Joint Explanatory Statement of the Committee of the Conference, Cong. Rec. H1107 (daily ed. Jan. 31. 1996).

⁹ U.S. Congress, Office of Technology Assessment, *Wireless Technologies and the National Information Infrastructure* (July 1995) ("Wireless Technologies") at 183.

¹⁰ "[A]pproximately 900,000 households do not have standard telephone service because the cost of bringing wire or cable to their remote locations is prohibitive. To some extent, wireless technology may offer a less costly means of extending services to these areas." *Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network*, CC Docket No. 95-115, *Notice of Proposed Rulemaking*, FCC No. 95-

The *NPRM* also requests comment on the extent to which the FCC's universal service programs should be modified to encompass or impose obligations on CMRS providers that offer the equivalent of local exchange service.¹¹ RCC believes that wireless providers who serve high cost areas should be eligible for support from the universal service fund or other high cost subsidies.¹² However, RCC agrees with the Commission that the bulk of such issues should be addressed in the universal service docket proceedings, rather than in this proceeding.

II. Providers of Fixed Wireless Services Should Remain Regulated As CMRS And Should Not Be Limited To Local Loop Services.

If the Commission decides to allow fixed wireless local loop services by CMRS providers, it must also decide how to regulate such services.¹³ The *NPRM* requests comment on several regulatory issues, four of which are of particular interest to RCC: (1) the overall regulatory structure for services with both fixed and mobile components; (2) rule changes that should be made to accommodate fixed wireless local loop services; (3) the type of fixed services that should be authorized via CMRS and (4) implications of allowing fixed wireless

281 (1995) at para. 41 (internal citation omitted).

¹¹ *NPRM* at para. 21.

¹² See also comments by the following parties to this effect in response to Commission's recent universal service reform Notice of Proposed Rulemaking, Matter of Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286 (July 13, 1995): MCI Comments at 9; Comments of NCTA at 6; Comments of Jones Intercable; Comments of Sprint Telecommunications Venture at 9; Comments of Personal Communications Industry Association at 7 (noting that in Argentina, a rural area wireless network was constructed in just six months).

¹³ *NPRM*, para. 19.

service on the availability of spectrum for mobile service.¹⁴

In addressing these four issues, RCC believes the Commission should be guided by an overriding principle: allowing technology to develop so that excessive regulation does not stifle the growth of new services to consumers. As the *NPRM* acknowledges, "the broad goal of [the 1993 Budget Act] was to ensure that economic forces -- not disparate regulatory requirements -- shape the development of the CMRS marketplace."¹⁵ As noted above, the recently passed 1996 Telecommunications Act shares this goal of providing for "a pro-competitive, deregulatory national policy framework to accelerate rapidly private sector deployment of advanced telecommunications."¹⁶ To meet these statutory mandates, the Commission must allow new services, such as wireless fixed services, to develop without overly burdensome regulation.

In modifying its CMRS rules to allow wireless providers to offer fixed services, the Commission should be careful not to stifle the growth of the wireless industry. RCC agrees with the *NPRM's* proposal that the Commission should continue to "treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for-profit mobile service to the public on licensed CMRS spectrum."¹⁷ Such regulation is consistent with the framework established by the CMRS *Second Report and Order* that all auxiliary services provided by mobile licensees

¹⁴ *Id.*

¹⁵ *NPRM* at para. 19.

¹⁶ *Telecommunications Act of 1996*, Conference Report, Joint Explanatory Statement of the Committee of the Conference, Cong. Rec. H1107 (daily ed. Jan. 31, 1996).

¹⁷ *NPRM*, para. 20.

be included in the definition of CMRS.¹⁸ Such a definition affords the Commission adequate opportunity for oversight of fixed local services offered by CMRS providers and avoids placing premature regulatory burdens on fixed CMRS service that might inhibit provision of service to consumers.

For example, it is premature for the Commission to regulate fixed wireless local loop services under Title II of the Communications Act, or for the Commission to attempt to define a new threshold between fixed and mobile wireless services, because fixed CMRS technology and services have not had the opportunity to develop. Moreover, regulation of providers of fixed wireless services under both Title II and title III could potentially squelch the development of fixed wireless local loop services and subject CMRS providers to undue state regulation. Continuing to regulate fixed wireless services as CMRS avoids undue burdens on innovation in service and technology, while affording the Commission flexibility for future regulation, should it become warranted.

Without commenting on the full range of possible rule changes raised by the *NPRM*'s proposals, RCC notes that Sections 20.9, 22.323 and 22.923 of the FCC's rules governing cellular carriers may require changes in order to implement the *NPRM*'s proposals. Section 20.9, which defines CMRS services, needs to be changed so that the definition of CMRS covers the fixed wireless services defined in the *NPRM*.¹⁹ Under Section 22.323, fixed services such as those at issue in the *NPRM* are authorized on an incidental basis, but require

¹⁸ *Matter of Implementation of Sections 3(n) and 332 of the Communications Act*, GN Docket No. 93-252, *Second Report and Order*, 9 FCC Rcd 1411, 1424, at para. 36 (1994). See also 47 C.F.R. s. 20.7 (1995).

¹⁹ *NPRM* para. 20

prior notification to the Commission.²⁰ If the *NPRM*'s proposals are adopted, the prior notification requirement likely could be eliminated with respect to wireless fixed services. In addition, provision of fixed wireless services should be incorporated into Section 22.923 so that a cellular system's configuration may include mobile and fixed wireless stations.²¹

RCC supports the Commission's proposal to make CMRS carriers eligible to offer a wide variety of wireless fixed services, including wireless Internet access, electronic funds transfers, point-of-purchase credit card verification, and remote monitoring.²² As the Office of Technology Assessment has recognized, authorizing use of advanced wireless services in the local loop could benefit rural Americans and enhance universal provision of basic telephone and advanced services:

In some respects, wireless may be better able to provide advanced services than the existing wireline network. In rural areas, deteriorating copper loops may not be able to support high-speed fax and data transmission, and it may be less expensive to install a new wireless loop than to rebuild an aging copper loop.²³

Wireless providers should not be restricted in the type of fixed services they provide, so long as their overall service continues to meet the *NPRM*'s definition of CMRS.²⁴ Indeed, allowing CMRS providers to offer fixed wireless local loop without other, advanced fixed services (such as Internet access) could unfairly relegate wireless customers to second-class status in

²⁰ 47 C.F.R. s. 22.323(d). The *NPRM* recognizes the ability of cellular carriers and others to offer such services at present and advances this trend. *NPRM* at para. 2, n. 2 and para. 4.

²¹ 47 C.F.R. § 22.923.

²² *NPRM* at para. 22.

²³ *Wireless Technologies*, at 221.

²⁴ *NPRM*, para. 20.

the National Information Infrastructure. Because rural America is an especially strong candidate for wireless fixed services, RCC strongly opposes any system that would leave rural Americans in the "slow lane" on the information superhighway by denying them access to advanced services provided by CMRS licensees.²⁵

Finally, the Commission requests comment on the impact that allowing fixed wireless services would have on spectrum allocated to mobile services.²⁶ RCC agrees that demand for radio spectrum is rapidly increasing, but notes that advances in technology, especially development of digital systems, allow for efficient use and re-use of spectrum so as to alleviate spectrum scarcity problems. In addition, the Commission's spectrum cap prevents one party from hoarding CMRS spectrum.²⁷ As a result, permitting wireless fixed services as proposed in the *NPRM* should not require any significant increase in cellular spectrum.

²⁵ See *NPRM* at para. 22.

²⁶ *NPRM* at paras. 17, 24.

²⁷ *Third Report and Order* at para. 238 (establishing 45 MHz spectrum cap for PCS, cellular and SMR).

CONCLUSION

For these reasons, RCC supports the *NPRM's* proposals to authorize fixed wireless services and urges the Commission to act in a manner consistent with the view expressed herein.

Respectfully submitted,

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March 1, 1996